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## MEMO ENDORSED

September 28, 2023

BY CM/ECF

The Honorable Edgardo Ramos  
United States District Judge  
Thurgood Marshall United States Courthouse  
40 Foley Square  
New York, New York 10007

Nikola's request to file its response under seal is granted. SO ORDERED.



Edgardo Ramos, U.S.D.J.

Dated: September 29, 2023

New York, New York

Re: United States v. Milton, Case No. 21-Cr-478 (ER)

Dear Judge Ramos:

We represent Nikola Corporation ("Nikola") in connection with the above-captioned action. Nikola respectfully requests permission to file under seal a response to Defendant Trevor Milton's September 14, 2023, letter motion (Dkt. 287-1) (the "Letter Motion").

Second Circuit case law permits judicial documents to remain under seal where legitimate privacy interests outweigh the "common law presumption of access." *Lugosch v. Pyramid Co. of Onondaga*, 435 F.3d 110, 119 (2d Cir. 2006). The weight of the presumption is based on its value "to those monitoring the federal courts" and may be counterbalanced by "competing considerations." *Id.* The Letter Motion and Nikola's response to the same relate to a confidential arbitration proceeding (the "Arbitration"). As Milton explained in his request to file the Letter Motion under seal, which Your Honor granted, a protective order in the Arbitration requires strict confidentiality with respect to the underlying proceedings and requires applications like Milton's to "be filed under seal, in a manner consistent with the rules of [this Court]." A copy of the protective order is included as Exhibit 1 to the Letter Motion.

Nikola is promptly serving counsel for Milton a copy of this Response.

Respectfully Submitted,

/s/ Robert W. Allen, P.C.  
Robert W. Allen, P.C.

CC: Counsel of Record  
(by CM/ECF)